

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEPHEN B. TURNER,

Plaintiff,

v.

MELODY SMITH, ET AL.,

Defendants.

No. 11-cv-5176 CRB

ORDER DENYING COSTS

After prevailing on summary judgment, Defendants have moved under Federal Rule of Civil Procedure 54(d)(1) to recover \$1,840.20 in costs from Plaintiff. That provision creates a presumption in favor of awarding costs to the prevailing party but vests the Court with discretion not to. See Ass'n of Mexican-American Educators v. California, 231 F.3d 572, 592 (9th Cir. 2000). To exercise that discretion, there must be particular circumstances indicating that "it would be inappropriate or inequitable to award costs." Id. at 593.

Those circumstances exist here. Plaintiff is indigent and homeless, which counsels strongly against awarding costs. See Escriba v. Foster Poultry Farms, Inc., 743 F.3d 1236, 1248 (9th Cir. 2014); Draper v. Rosario, 836 F.3d 1072, 1088 (9th Cir. 2016). And although this was not the closest of cases, the Court is loath to risk chilling future actions brought by civil-rights plaintiffs. See Stanley v. Univ. of S. Cal., 178 F.3d 1069, 1080 (9th Cir. 1999). The Court therefore DENIES the motion to recover costs.

IT IS SO ORDERED.

Dated: May 31, 2017



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE